

ESTTA Tracking number: **ESTTA398822**

Filing date: **03/18/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Trek Bicycle Corporation		
Entity	Corporation	Citizenship	Wisconsin
Address	801 West Madison Waterloo, WI 53594 UNITED STATES		

Attorney information	Mary Catherine Merz Merz & Associates, P.C. 1010 Lake Street, Suite 400 Oak Park, IL 60301-1135 UNITED STATES docket@merz-law.com Phone:(708) 383-8801		
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### Applicant Information

Application No	85128759	Publication date	03/08/2011
Opposition Filing Date	03/18/2011	Opposition Period Ends	04/07/2011
Applicant	APOLLO INDUSTRIES LIMITED Unit 3A 20/F, Far East Consortium Buildi 121 Des Voeux Road Central, HONG KONG		

### Goods/Services Affected by Opposition

Class 012. First Use: 2009/11/00 First Use In Commerce: 2009/11/00  
All goods and services in the class are opposed, namely: Fitted motorcycle covers; Motorcycle bags, namely, tank bags, saddle bags, sissy bar bags and tail bags

### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1168276	Application Date	04/21/1980
Registration Date	09/08/1981	Foreign Priority Date	NONE
Word Mark	TREK		
Design Mark			
Description of Mark	NONE		

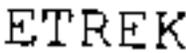
Goods/Services	Class 012. First use: First Use: 1977/03/10 First Use In Commerce: 1977/03/10 Bicycles and Bicycle Frames		
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U.S. Registration No.	1989281	Application Date	11/29/1994
Registration Date	07/23/1996	Foreign Priority Date	NONE
Word Mark	TREKKING		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 1996/01/00 First Use In Commerce: 1996/01/00 bicycles		

U.S. Registration No.	1994479	Application Date	10/03/1994
Registration Date	08/20/1996	Foreign Priority Date	NONE
Word Mark	TREK 100		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 1989/00/00 First Use In Commerce: 1989/00/00 providing ride support vehicles in competitive and recreational events, namely bicycle tours, bicycle races, and triathlons		

U.S. Registration No.	2060274	Application Date	10/06/1994
Registration Date	05/13/1997	Foreign Priority Date	NONE
Word Mark	TREK		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 1990/09/00 First Use In Commerce: 1990/09/00 cycling computers and head protective helmets for bicycle users</p> <p>Class 012. First use: First Use: 1993/01/00 First Use In Commerce: 1993/01/00 bicycles, bicycle frames, and a full line of parts and accessories for bicycles, namely, handlebars, [handlebar end extensions, handlebar stems, ] seats, seat posts, seat post clamps and binder bolts, [ tires, tire innertubes, pedals, ] forks for supporting bicycles upon bicycle wheels, [ bicycle suspensions, wheels and wheel rims, ] water bottles, water bottle cages, bicycle mounted racks, [ bicycle carrying racks for motor vehicles, ] tools and tire repair kits for bicycles, lock holders, [ audible warning devices, namely, bells for bicycles, ] lighting systems for bicycles [ and bicycle fenders ]</p> <p>Class 028. First use: First Use: 1993/10/00 First Use In Commerce: 1993/10/00 exercise equipment, namely, stationary exercise cycles</p>		

U.S. Registration No.	2687012	Application Date	03/01/2000
Registration Date	02/11/2003	Foreign Priority	NONE

		Date	
Word Mark	ETREK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2002/09/30 First Use In Commerce: 2002/09/30 On-line retail and wholesale store services, featuring a wide range of consumer products, except footwear, all provided via the Internet		

U.S. Registration No.	2708232	Application Date	08/29/1997
Registration Date	04/22/2003	Foreign Priority Date	03/03/1997
Word Mark	TREK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 2002/06/30 First Use In Commerce: 2002/06/30 Non-alcoholic beverages sold in liquid form, namely, non-carbonated fruit juices, either alone or flavored with any or all of the following - water, herbs and spices (Based on Use in Commerce); non-carbonated drinking waters either alone or flavored with any or all of the following - herbs, spices, and natural fruit flavors (Based on Use in Commerce) and (Based on 44(e))		

U.S. Registration No.	2742116	Application Date	10/04/2002
Registration Date	07/29/2003	Foreign Priority Date	NONE
Word Mark	TREK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 1998/09/30 First Use In Commerce: 1998/09/30 bicycles and bicycle frames		

U.S. Registration No.	2876977	Application Date	09/27/2001
Registration Date	08/24/2004	Foreign Priority	NONE

		Date	
Word Mark	TREKLITE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 009. First use: First Use: 1977/12/22 First Use In Commerce: 1979/07/17 orienteering equipment and clothing for outdoor sporting activities, namely, protective outer wear</p> <p>Class 025. First use: First Use: 1977/12/22 First Use In Commerce: 1979/07/17 orienteering equipment and clothing for outdoor sporting activities, namely, leggings, pants, gators, shirts, and jackets</p>		

U.S. Registration No.	3031210	Application Date	06/28/2004
Registration Date	12/20/2005	Foreign Priority Date	NONE
Word Mark	TREK TRAVEL		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 039. First use: First Use: 2002/10/01 First Use In Commerce: 2002/10/01 Arranging travel tours featuring hiking, river rafting, whale watching, kayaking, and bicycling; cultural tours, namely, conducting sightseeing tours for others</p> <p>Class 041. First use: First Use: 2002/10/01 First Use In Commerce: 2002/10/01 Sporting and cultural activities related to bicycling, namely, wine tastings and cultural tours, namely, guided tours of wineries</p> <p>Class 043. First use: First Use: 2002/10/01 First Use In Commerce: 2002/10/01 Services for providing food and drinks and temporary lodging for those participating in bicycling activities and cultural activities related to bicycling, namely, hiking, river rafting, cultural tours, wine tastings, whale watching and kayaking</p>		

U.S. Registration No.	3042834	Application Date	07/08/2004
Registration Date	01/10/2006	Foreign Priority Date	NONE
Word Mark	TREK UNIVERSITY		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 041. First use: First Use: 2004/10/01 First Use In Commerce: 2004/10/01 Instructional and training services in the field of retailing bicycles, bicycle clothing and bicycle accessories, and in the fields of bicycle safety, bicycle recreation, bicycle service and bicycle repair

U.S. Registration No.	3053077	Application Date	10/21/2003
Registration Date	01/31/2006	Foreign Priority Date	NONE
Word Mark	TREK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 018. First use: First Use: 1993/01/31 First Use In Commerce: 1993/01/31 backpacks, fanny packs, textile tote bags, hip packs, messenger bags, rack trunks, saddle bags, bicycle seat packs, all purpose sports bags		

U.S. Registration No.	3066516	Application Date	11/06/2002
Registration Date	03/07/2006	Foreign Priority Date	NONE
Word Mark	TREKER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 2002/11/00 First Use In Commerce: 2002/11/00 OFF-ROAD ALL-TERRAIN UTILITY VEHICLES		

U.S. Registration No.	3397739	Application Date	07/03/2007
Registration Date	03/18/2008	Foreign Priority Date	NONE
Word Mark	TREK BICYCLE STORE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1996/09/01 First Use In Commerce: 1996/09/01 retail stores featuring bicycles		

U.S. Registration	3516346	Application Date	03/27/2008
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No.			
Registration Date	10/14/2008	Foreign Priority Date	NONE
Word Mark	TREK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2002/09/30 First Use In Commerce: 2002/09/30 On-line retail and wholesale store services featuring a wide range of consumer products except footwear all provided via the Internet		

U.S. Registration No.	3576106	Application Date	07/31/2008
Registration Date	02/17/2009	Foreign Priority Date	NONE
Word Mark	TREK STOP		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2008/06/30 First Use In Commerce: 2008/06/30 retail vending services in the field of automated vending machines that dispenses bicycle parts, bicycle accessories, energy bars, beverages and gels		

U.S. Registration No.	3653169	Application Date	02/05/2008
Registration Date	07/14/2009	Foreign Priority Date	NONE
Word Mark	TREK 100		

Design Mark	<h1>Trek 100</h1>		
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1989/05/01 First Use In Commerce: 1989/05/01 Charitable fund raising services by means of bicycle rides and entertainment events		

U.S. Registration No.	3709688	Application Date	05/16/2008
Registration Date	11/10/2009	Foreign Priority Date	NONE
Word Mark	TREK		
Design Mark	<h1>Trek</h1>		
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 2009/08/10 First Use In Commerce: 2009/08/10 Powders used in the preparation of sports drinks and energy drinks		

U.S. Registration No.	3789682	Application Date	08/05/2009
Registration Date	05/18/2010	Foreign Priority Date	NONE
Word Mark	TREK		

Design Mark	<h1>TREK</h1>		
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 1989/05/01 First Use In Commerce: 1989/05/01 Charitable fund raising services by means of bicycle rides and entertainment events		

U.S. Registration No.	3798045	Application Date	02/05/2008
Registration Date	06/08/2010	Foreign Priority Date	NONE
Word Mark	TREK		
Design Mark	<h1>Trek</h1>		
Description of Mark	NONE		
Goods/Services	Class 028. First use: First Use: 2000/04/28 First Use In Commerce: 2000/04/28 Exercise equipment, namely, stationary trainers for use with bicycles		

U.S. Registration No.	3900734	Application Date	06/17/2010
Registration Date	01/04/2011	Foreign Priority Date	NONE
Word Mark	TREK		

Design Mark	<h1>Trek</h1>
Description of Mark	NONE
Goods/Services	Class 012. First use: First Use: 2009/08/01 First Use In Commerce: 2009/08/01 Electric Bikes

U.S. Application No.	77937970	Application Date	02/17/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	TREK		
Design Mark			
Description of Mark	The mark consists of a stylized shield design, on which appears 4 vertical curved lines. The word "TREK" appears on the top border of the shield design.		
Goods/Services	Class 025. First use: Cycling apparel, namely, jerseys and shorts, hats, tshirts		

U.S. Application No.	85179666	Application Date	11/18/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	PRO TREK		

Design Mark	<b>PRO TREK</b>
Description of Mark	NONE
Goods/Services	Class 014. First use: electronic wrist watches

U.S. Application No.	85173419	Application Date	11/10/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	TREK BICYCLES OF TUCSON		
Design Mark			
Description of Mark	The mark consists of standard letters with the word Trek on top of the words Bicycles of Tucson.		
Goods/Services	Class 035. First use: First Use: 2007/06/04 First Use In Commerce: 2007/06/04 Retail stores featuring bicycles		

U.S. Application No.	85085438	Application Date	07/15/2010
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	TREK		

Design Mark	<h1>TREK</h1>
Description of Mark	NONE
Goods/Services	Class 041. First use: Health club services, namely, providing instruction and equipment in the field of physical exercise; Providing assistance, personal training and physical fitness consultation to individuals to help them make physical fitness, strength, conditioning, and exercise improvement in their daily living; Providing fitness and exercise facilities; Training services in the field of physical exercise

U.S. Registration No.	2745442	Application Date	01/05/1998
Registration Date	08/05/2003	Foreign Priority Date	NONE
Word Mark	TREK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1988/06/00 First Use In Commerce: 1988/06/00 bicycling apparel, namely, bicycling jersey; form fitting and reinforced seat elastic shorts; ankle length socks; wind resistant jackets with enhanced visibility fabric, extra sleeve length, high collar and extended length back panel; vests with enhanced visibility fabric, high collar and extended length back panel Class 028. First use: First Use: 1988/06/00 First Use In Commerce: 1988/06/00 padded and reinforced fingerless bicycling gloves		

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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Mary Catherine Merz/
Name	Mary Catherine Merz
Date	03/18/2011

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of U.S. Application Serial No. 85/128,759  
For: MOTOTREK  
Filed: September 14, 2010  
Date of Publication: March 8, 2011

TREK BICYCLE CORPORATION	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. _____
	)	
APOLLO INDUSTRIES LIMITED	)	
	)	
Applicant.	)	

**NOTICE OF OPPOSITION**

In the matter of U.S. Trademark Application Serial No. 85/128,759 ("Serial No. 85/128,759") for the mark MOTOTREK and in International Class 12, filed in the name of Apollo Industries Limited ("applicant"), which was published for opposition in the Official Gazette of March 8, 2011. Trek Bicycle Corporation ("Trek"), a Wisconsin corporation with its principal place of business at 801 West Madison, Waterloo, Wisconsin 53594, believes it will be damaged by the registration of the mark in Serial No. 85/128,759 and

hereby opposes the same, in accordance with Section 13 of The Trademark (Lanham) Act of 1946, 15 U.S.C. §1063.

As grounds for the opposition, Trek alleges as follows:

1. Upon information and belief, applicant is a limited liability company organized under the laws of Hong Kong, with its principal address at Unit 3A 20/F, Far East Consortium Building, 121 Des Voeux Road, Central, Hong Kong.

2. As evidenced by the publication of Serial No. 85/128,759 in the Official Gazette of March 8, 2011, applicant seeks to register MOTOTREK in connection with "fitted motorcycle covers; motorcycle bags, namely, tank bags, saddle bags, sissy bar bags and tail bags" in International Class 12.

3. Upon information and belief, applicant filed Serial No. 85/128,759 on September 14, 2010 based on use of the mark in commerce in connection with the claimed goods since November of 2009.

4. Since at least 33 years prior to applicant's first use date for Serial No. 85/128,759, Trek adopted and has continuously used the trade name "TREK" in connection with its business activities.

5. Trek has invested substantial amounts of time, effort and money in protecting and policing its TREK trade name in the United States and throughout the world. As such, Trek has extensive, non-registered statutory and common law rights in and to its TREK trade name, which Trek uses in connection with its business activities.

6. Since at least 32 years prior to applicant's first use date for Serial No. 85/128,759, Trek adopted and has continuously used its TREK trademark in connection with bicycles, bicycle frames, bicycle parts and accessories; Trek also has expanded its trademark use of "TREK" to cover numerous additional products and services, including but not limited to, electronic bicycles and bicycling accessories such as backpacks, fanny packs, textile tote bags, hip packs, messenger bags, rack trunks, saddle bags, bicycle seat packs, and all purpose sports bags.

7. Trek is the owner of the following U.S. Trademark registrations:

Registration No. 1,168,276 for TREK for "bicycles and bicycle frames";

Registration No. 1,989,281 for TREKKING for "bicycles";

Registration No. 1,994,479 for TREK 100 for "providing ride support vehicles in competitive and recreational events, namely, bicycle tours, bicycle races, and triathlons";

Registration No. 2,060,274 for TREK for "exercise equipment, namely, stationary exercise cycles," "bicycles," "cycling computers," and "head protective helmets for bicycle users," among other things;

Registration No. 2,687,012 for ETREK for "online retail and wholesale store services, featuring a wide range for consumer products, except footwear, all provided via the Internet";

Registration No. 2,708,232 for TREK for "non-alcoholic beverages";

Registration No. 2,742,116 for TREK Stylized for "bicycles and bicycle frames";

Registration No. 2,745,442 for TREK for "bicycling apparel, namely, bicycling jersey; form fitting and reinforced seat elastic shorts; ankle length socks; wind resistant jackets with enhanced visibility fabric, extra sleeve length, high collar and extended length back panel; vests with enhanced visibility fabric, high collar and extended length back panel" and "padded and reinforced fingerless bicycling gloves";

Registration No. 2,876,977 for TREKLITE for "orienteering equipment and clothing for outdoor sporting activities, namely protective outer wear" and "orienteering equipment and clothing for outdoor sporting activities, namely, leggings, pants, gators, shirts, and jackets";

Registration No. 3,031,210 for TREK TRAVEL for "travel arrangement of bicycling tours," "sporting and cultural activities related to bicycling," and "services for providing food and drinks, temporary accommodation, all related to bicycling activities";

Registration No. 3,042,834 for TREK UNIVERSITY for "instruction and training services, in the field of retailing bicycles, bicycle clothing and bicycle accessories; and in the fields of bicycle safety, bicycle recreation, bicycle service and bicycle repair";

Registration No. 3,053,077 for TREK for "backpacks, fanny packs, textile tote bags, hip packs, messenger bags, rack trunks, saddle bags, bicycle seat packs, and all purpose sports bags";

Registration No. 3,066,516 for TREKER for "off road all-terrain utility vehicles";

Registration No. 3,397,739 for TREK BICYCLE STORE for "retail stores featuring bikes";

Registration No. 3,516,346 for TREK for "online retail and wholesale store services featuring a wide range of consumer products except footwear all provided via the Internet";

Registration No. 3,576,106 for TREK STOP for "retail vending services in the field of automated vending machines that dispenses bicycle parts, bicycle accessories, energy bars, beverages and gels";

Registration No. 3,653,169 for TREK 100 for "Charitable fund raising services by means of bicycle rides and entertainment events"; and

Registration No. 3,709,688 for TREK for "Powders used in the preparation of sports drinks and energy drinks";

Registration No. 3,789,682 for TREK for "Charitable fund raising services by means of bicycle rides and entertainment events";

Registration No. 3,798,045 for TREK for "Exercise equipment, namely, stationary trainers for use with bicycles";

Registration No. 3,900,734 for TREK for "electric bikes."

These registrations are valid, subsisting, uncanceled and are evidence of Trek's exclusive right to use TREK and the

other identified marks in commerce in connection with the goods and services specified in the registrations.

8. Trek is also the owner of the following U.S. trademark applications:

Serial No. 77/937,970 for TREK and Design for "Cycling apparel, namely jerseys and shorts, hats, t-shirts and cycling shoes";

Serial No. 85/179,666 for PRO TREK for "electric wrist watches";

Serial No. 85/173,419 for TREK BICYCLES OF TUCSON for "retail stores featuring bicycles";

Serial No. 85/085,438 for TREK for "health club services, namely, providing instruction and equipment in the field of physical exercise; Providing assistance, personal training and physical fitness consultation to individuals to help them make physical fitness, strength, conditioning, and exercise improvement in their daily living; Providing fitness and exercise facilities; Training services in the field of physical exercise."

9. Since at least as early as the respective dates of first use stated in its applications and registrations, Trek has used its marks in connection with the sale of goods and services covered by those registrations. Such use has not been abandoned, and the public has come to associate Trek's goods and services with the TREK trademark and trade name.

10. Prior to the applicant's first use date for the mark MOTOTREK, Trek's TREK mark had become famous for Trek's goods and services.

11. Applicant has no license, consent or permission from Trek to use or register MOTOTREK.

12. Applicant's mark MOTOTREK so resembles Trek's TREK mark and trade name and other TREK-formative marks, that it is likely to cause confusion, or to cause mistake or to deceive within the meaning of Section 2(d) of The Trademark (Lanham) Act of 1946, 15 U.S.C. § 1052(d); and more particularly, applicant's mark and use thereof are likely to cause confusion in, or to cause mistake by, or to deceive the trade and purchasing public into believing that the goods in Serial No. 85/128,759 originate with Trek or otherwise are authorized, licensed or sponsored by Trek.

13. By reason of all the foregoing, Trek will be damaged by the registration of applicant's MOTOTREK mark for the goods covered by Serial No. 85/128,759, because registration of that mark would be in violation of Trek's trademark and trade name rights.

WHEREFORE, Trek prays that this Notice of Opposition be sustained in favor of Trek and that Serial No. 85/128,759 be denied registration. Trek submits herewith

its payment of the \$300 filing fee, as required by 37  
C.F.R. §2.6(a)(17).

Respectfully submitted,  
TREK BICYCLE CORPORATION

March 18, 2011

By: Mary Catherine Merz

Mary Catherine Merz, Esq.  
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Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on  
applicant by First Class Mail this 18th day of March, 2011,  
addressed to:

XAVIER MORALES  
LAW OFFICE OF XAVIER MORALES  
PO BOX 2987  
NEW YORK, NEW YORK 10008-2517

By: Mary Catherine Merz